

REMARKS

Claims 24 and 27-46 are pending. Claims 25 and 26 have been cancelled, without prejudice. Claims 24 and 27-46 have been amended with claim 24 being the only independent claim.

The disclosure stands objected to because the term "spherical" appearing on page 18 of the specification has should be changed. The Examiner' attention is directed to Preliminary Amendment filed on May 25, 2004 which deleted pages 16-18, in their entirety. Withdrawal of the objection is requested.

Claims 27, 41 and 42 stand objected to because of improper dependency.

These claims have been amended to correct the dependency. Withdrawal of the objection is respectfully requested.

Claims 38-40 have been rejected under 35 U.S.C. §112, second paragraph.

These claims have been appropriately amended to overcome the basis for the §112 rejection, which is respectfully requested to be withdrawn.

Claims 24, 25, 28, 29, 30, 33, 35, and 38-40 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,259,293 (Brunner).

Claim 24 has been amended to recite a door operator provided with a door operating element, which is actuated by a hydraulically actuated piston displaceable against a spring force so that the door actuating element holds a door open. Additionally, the subject matter of claims 25 and 26 have been incorporated into claim 24.

The door operator of the present invention recited in amended independent claim 24 includes a hydraulic servo drive provided with a lockable non-return control valve which operates in a simple and reliable manner to controllably hold a normally closed door open. As a consequence, the inventive door operator provides for an additional fire-safety feature. To minimize a force necessary for actuating the door, the door operator is configured with an auxiliary device operative to control a drive torque of a pressure generating element.

Brunner teaches a hydraulic control system for operating a crane. In contrast to the invention as recited in amended Claim 24, Brunner neither teaches nor suggests a door operating element and a piston and cylinder unit coupled to the door operating element so as to hold the door open against a spring force biasing the piston to a position, in which the door operating element holds the door closed. Thus, Brunner relates to a technical field far removed from that of the invention recited in amended independent claim 24. Furthermore, Brunner provides no teaching regarding a 2/2-way directional lockable control valve, as presently recited in amended claim 24. Thus, Brunner does not teach all of the elements as recited in amended claim 24 and, as a consequence, is not anticipatory.

Claims 28-30, 33, 35 and 38-40 depend from amended claim 24 and are not anticipated by Brunner either. Withdrawal of the §102(b) rejection is respectfully requested.

Claims 26 and 34 stand rejected under 35 U.S.C. §103(a) as unpatentable over Brunner in view of U.S. Patent No. 3,699,993 (Heroin).

Claim 26 has been cancelled and its subject is presently recited in amended claim 24.

Disclosing a hydraulic drive for a crane, Brunner is silent about locking the crane in a predetermined position. As a consequence, Brunner, which teaches a 2/2 valve, of course, does not teach a lockable valve, as recited in amended claim 24.

Heroin suggests using a lockable valve for use in a hydraulic press. Because applicant's amended claim 24 is directed to doors not to presses, Heroin relates to a technical field far removed from that of the invention received in amended independent claim 24. Additionally, the technical fields of Heroin and Brunner are far removed from one another, so there is no reason or motivation to combine these two references. Furthermore, incorporating the teaching of Heroin in Brunner is illogical. A crane - a machine for raising, shifting, and lowering heavy weights by means of a projecting swinging arm - does not require locking of the arm in a predetermined position. The combination proposed by the Examiner that suggests that "a 2/2 way valve [be] a lockable non-return valve or that the non-return valve [be] integrated into the control piston" has no motivation behind it. See Office Action, p. 4. The proposed modifications leading to a locked predetermined position would serve no useful function in a machine, such as a crane, designed to

displace weights along an arcuate path. It is respectfully submitted that the Examiner's reasoning in combining the above-mentioned references is unsupportable because it is not based on the teaching provided by the primary reference. Moreover, the only possible reason for combining these two references is that it relies on impermissible hindsight based on the present claimed invention. Of course, this is not permissible.

However, even if it were conceded, *arguendo*, that these references can be properly combined, even such a combination would not result in the present invention as recited in amended claim 24. First of all, Heroin does not related to or suggest a press locked in the open position, whereas amended claim 24 requires that the door be locked in its open position by a 2/2-way directional lockable non-return control valve. Second, Heroin provides no teaching or suggestion regarding a door operating element and a piston actuating the door operating element. Accordingly, it is respectfully submitted that claim 24 is patentable over the applied references when used singly or in combination. Thus, amended claims 24 is allowable, and it is respectfully requested that the 35 U.S.C. §103(a) rejection be withdrawn.

Dependent claims 27 to 46 are allowable over the cited prior art because independent claim 24 is patentable.

Claims 32, 37, 41-44, and 46 stand rejected under 35 U.S.C. §103(a) as unpatentable over Brunner in view of U.S. Patent No. 5,373,121 (Nagel).

Nagel suggests using an auxiliary device configured to control the motor speed of an elevator. Nagel does not teach an auxiliary device for performing a support function during actuation of "the door operating element" as recited in amended claim 41, which, thus, is patentably distinguishable over the references made of record and applied either alone or in combination. Claims 42 and 43 depend from claim 41 and are patentable for the reason that claim 41 is patentable as well. Thus, the 35 U.S.C. §103(a) rejection is respectfully requested to be withdrawn.


Claim 45 has been rejected under 35 U.S.C. §103(a) as unpatentable over Brunner in view of U.S. Patent No. 4,367,087 (Franco).

Franco neither teaches nor suggests "the door operating element compris[ing] a pinion driven by the piston to operate the door, and a position sensor which cooperates with the pinion." Thus, amended claim 45 is patentable over the applied combination of references for this additional reason. Withdrawal of the 35 U.S.C. §103(a) rejection is respectfully requested.

Based on all of the above, it is respectfully submitted that the present application is now in proper condition for allowance. Prompt and favorable action to this effect and early passing of this application to issue are respectfully solicited.

It is believed that no fees or charges are required at this time in connection with the present application; however, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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Dated: July 21, 2005